

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 13007 OF 2024

Kendriya Vihar Co-operative

Housing Soc Ltd Thr Chairman

... Petitioner

Versus

Divisional Joint Registrar

Co-operative Soc. and Ors

... Respondents

Ms. Sujata Dhanawade *i/b Ms. Meera Barge for the Petitioner.*

Ms. A. A. Nadkarni, AGP *for the Respondent Nos. 1 & 2/ State.*

Mr. Shreeprasad Parab, *for Respondent Nos. 3 & 4.*

CORAM : SANDEEP V. MARNE, J.

DATE : 28 JANUARY 2025.

P.C. :

1) The Petition challenges orders dated 11 July 2024 passed by the Divisional Joint Registrar, Co-operative Societies, Pune rejecting Revision Application No. 57 of 2024 preferred by the Petitioner-Society and confirming the Order dated 6 February 2024 passed by the Deputy Registrar. By Order dated 6 February 2024 the Deputy Registrar allowed the application preferred by Respondent Nos. 3 and 4 and has granted deemed membership of the society in their favour under provisions of sub Section (2) of Section 23 of the Maharashtra Co-operative Societies Act, 1960 (**MCS Act**).

2) I have heard Ms. Dhanawade, the learned counsel appearing for the Petitioner, Ms. Nadkarni, the learned AGP appearing for Respondent Nos. 1 and 2-State and Mr. Parab, the learned counsel appearing for Respondent Nos. 3 and 4.

3) After having heard the learned counsel appearing for parties, it is seen that the main resistance on the part of the Petitioner-Society for admission of Respondent Nos. 3 and 4 as its members is their status as Non Government Employees. It appears that originally Shri Tukaram Kute had jointly purchased the flat in question along with Respondent Nos. 3 and 4. There is no dispute to the position that Shri. Tukaram Kute is a Central Government Employee. Since one of the purchasers was a Central Government Employee, it appears that membership was granted in the joint names of Shri. Tukaram Kute and Respondent Nos. 3 and 4. Subsequently, Shri. Tukaram Kute gifted his portion of ownership in respect of the flat in favour of Respondent Nos. 3 and 4 vide registered Gift Deed dated 13 March 2023 Respondent Nos. 3 and 4, after acquiring full ownership in respect of the flat, made an application before the society for grant of membership. The society proceeded to reject the application on the ground that Respondent Nos. 3 and 4 are not Government Employees and cannot be admitted as its members in view of decision adopted by the general body of the society in its meeting held on 31 May 2015.

4) Perusal of the orders passed by the Deputy Registrar and the Divisional Joint Registrar would indicate that findings are recorded by both the authorities that the restriction sought to be put by the Petitioner-Society on admission of persons, who are not Government Employees as its members, is not in consonance with

the model bye-laws as well as provisions of the Act and the rules. It appears that after adoption of resolution extending the bar on sale of the flats to Non Government Employees upto 2025 in the meeting dated 31 May 2015, an application was made to the Deputy Registrar for amendment of Bye-Law No. 37(d). However, the said application came to be rejected by the Deputy Registrar by order dated 2 September 2015. Thus, the bye-laws have not been amended to bring the same in consonance with the general body resolution dated 31 May 2015. The bye-laws apparently does not contain any restriction on the sale of the flat in favour of Non Government Employees. Perusal of the Central Government Employees Welfare Housing Organization Rules would indicate that once the flat is transferred in favour of the beneficiary, he/she can dispose it of with prior permission of the society in terms of its bye-laws. Since there is no restriction in the bye-laws on transfer of the flat in favour of Non Government Employees, I do not see any error on the part of the Deputy Registrar and the Divisional Joint Registrar in allowing the application preferred by Respondent Nos. 3 and 4 for their admission as members of the society. No case is thus made out for interference in the orders passed by the Deputy Registrar and the Divisional Joint Registrar. Writ Petition is devoid of merits and is accordingly **rejected**.

[SANDEEP V. MARNE, J.]